

107TH CONGRESS  
1ST SESSION

# H. R. 3563

To promote and facilitate expansion of coverage under group health plans,  
and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 20, 2001

Mr. ANDREWS introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To promote and facilitate expansion of coverage under group  
health plans, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Group Health Plan  
5       Coverage Expansion Act of 2001”.

1 **SEC. 2. PROGRAM TO PROMOTE AND FACILITATE EXPAN-**  
2 **SION OF COVERAGE UNDER GROUP HEALTH**  
3 **PLANS.**

4 (a) IN GENERAL.—Part 5 of subtitle B of title I of  
5 the Employee Retirement Income Security Act of 1974 is  
6 amended by adding after section 517 (29 U.S.C. 1147)  
7 the following new section:

8 **“SEC. 518. PROMOTION AND FACILITATION OF COVERAGE**  
9 **UNDER GROUP HEALTH PLANS.**

10 “(a) IN GENERAL.—The Secretary shall establish by  
11 regulation a program—

12 “(1) to promote and facilitate the availability to  
13 individuals of financial assistance provided by the  
14 Federal Government and by States and political sub-  
15 divisions thereof for the purpose of assisting such in-  
16 dividuals with the payment of employee contribu-  
17 tions to group health plans, and

18 “(2) to promote and facilitate the establishment  
19 of alternative group purchasing or pooling arrange-  
20 ments, such as purchasing cooperatives for small  
21 businesses, reinsurance pools, or high risk pools.

22 “(b) INTERGOVERNMENTAL CONSULTATION.—Under  
23 such program, the Secretary shall—

24 “(1) provide for such ongoing consultation with  
25 agencies and instrumentalities of the Federal Gov-  
26 ernment and of the States and political subdivisions

1       thereof as is necessary and appropriate to further  
2       the purposes such program, and

3           “(2) submit to each House of the Congress  
4       such recommendations for such legislative changes  
5       as the Secretary may, from time to time, consider to  
6       be appropriate to further the purposes of such pro-  
7       gram.

8       “(c) SAFEGUARDS TO ENSURE MAINTENANCE OF  
9       CURRENT LEVELS OF GOVERNMENTAL SUPPORT FOR  
10      HEALTH CARE.—The Secretary shall ensure that partici-  
11     pation in the program by any State or political subdivision  
12     thereof with respect to financial assistance described in  
13     subsection (a)(1) may not occur unless the Secretary finds  
14     that any reallocation of funds by such State or political  
15     subdivision in connection with participation in the pro-  
16     gram does not result in a decrease in the number of indi-  
17     viduals in the applicable jurisdiction who have substantial  
18     coverage for health benefits under either public or private  
19     programs.”.

20       (b) DEADLINE FOR ESTABLISHING PROGRAM.—The  
21     Secretary of Labor shall issue initial final regulations nec-  
22     essary to carry out the program established under section  
23     518 of the Employee Retirement Income Security Act of  
24     1974 (added by section 2) not later than December 31,  
25     2002.

1 **SEC. 3. NOTIFICATION TO PARTICIPANTS IN EMPLOYEE**  
2 **BENEFIT PLANS OF AVAILABILITY OF CHILD**  
3 **HEALTH ASSISTANCE UNDER SCHIP AND**  
4 **CASH BENEFITS AVAILABLE UNDER SSI.**

5 (a) IN GENERAL.—Section 104 of the Employee Re-  
6 tirement Income Security Act of 1974 (29 U.S.C. 1024)  
7 is amended—

8 (1) by redesignating subsection (d) as sub-  
9 section (e); and

10 (2) by inserting after subsection (c) the fol-  
11 lowing new subsection:

12 “(d)(1) The administrator of an employee benefit  
13 plan shall include in each summary plan description, up-  
14 dated summary plan description, and summary description  
15 of a modification or change to the plan which is furnished  
16 to participants, and shall provide separately to individuals  
17 claiming benefits under the plan, a summary description  
18 of—

19 “(A) the child health assistance available under  
20 State child health plans under title XXI of the So-  
21 cial Security Act, and

22 “(B) the cash benefits available to eligible el-  
23 derly or disabled individuals with limited income and  
24 resources under the supplemental security income  
25 program under title XVI of the Social Security Act.

1       “(2) The summary description required under para-  
2 graph (1) shall—

3               “(A) be in a form which shall be prescribed in  
4 regulations of the Secretary, in consultation with the  
5 Secretary of Health and Human Services,

6               “(B) be written in a manner calculated to be  
7 understood by the average plan participant, and

8               “(C) include—

9                       “(i) the appropriate telephone number,  
10 Internet website, and mailing address for the  
11 State program providing the assistance de-  
12 scribed in paragraph (1)(A) in the State in  
13 which the participant or beneficiary resides, and

14                       “(ii) the appropriate telephone number,  
15 Internet website, and mailing address for the  
16 supplemental security income program de-  
17 scribed in paragraph (1)(B),

18 together with the benefits information applicable to  
19 such programs.”.

20       (b) ENFORCEMENT.—Section 502(c)(1)(A) of such  
21 Act (29 U.S.C. 1132(c)(1)) is amended by striking “para-  
22 graph (1) or (4) of section 606 or section 101(e)(1)” and  
23 inserting “section 101(e)(1), section 104(d), or paragraph  
24 (1) or (4) of section 606”.

1       (c) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply with respect to summary plan de-  
 3 scriptions, updated summary plan descriptions, and sum-  
 4 mary descriptions of plan modifications or changes fur-  
 5 nished to participants or beneficiaries, and in connection  
 6 with benefit claims filed, after December 31, 2001.

7       **SEC. 4. PROHIBITION OF LIFETIME LIMITS IN GROUP**  
 8                                   **HEALTH PLANS.**

9       (a) IN GENERAL.—Subpart B of part 7 of subtitle  
 10 B of title I of the Employee Retirement Income Security  
 11 Act of 1974 is amended by adding at the end the following  
 12 new section:

13       **“SEC. 714. PROHIBITION ON APPLICATION OF LIFETIME**  
 14                                   **LIMITATIONS.**

15       “(a) REQUIREMENT.—A group health plan, and a  
 16 health insurance issuer offering group health insurance  
 17 coverage, may not impose any aggregate lifetime limit on  
 18 benefits, including any category of benefits, under the plan  
 19 or coverage.

20       “(b) NOTICE UNDER GROUP HEALTH PLAN.—The  
 21 imposition of the requirement of this section shall be treat-  
 22 ed as a material modification in the terms of the plan de-  
 23 scribed in section 102(a)(1), for purposes of assuring no-  
 24 tice of such requirements under the plan; except that the  
 25 summary description required to be provided under the

1 last sentence of section 104(b)(1) with respect to such  
 2 modification shall be provided by not later than 60 days  
 3 after the first day of the first plan year in which such  
 4 requirement apply.”.

5 (b) CONFORMING AMENDMENTS.—

6 (1) Section 731(c) of such Act (29 U.S.C.  
 7 1191(c)) is amended by striking “section 711” and  
 8 inserting “sections 711 and 714”.

9 (2) Section 732(a) of such Act (29 U.S.C.  
 10 1191a(a)) is amended by striking “section 711” and  
 11 inserting “sections 711 and 714”.

12 (3) The table of contents in section 1 of such  
 13 Act is amended by inserting after the item relating  
 14 to section 713 the following new item:

“Sec. 714. Prohibition on application of lifetime limitations.”.

15 (c) EFFECTIVE DATES.—

16 (1) IN GENERAL.—Subject to paragraph (2),  
 17 the amendments made by this section apply with re-  
 18 spect to group health plans for plan years beginning  
 19 on or after January 1, 2003.

20 (2) COLLECTIVE BARGAINING EXCEPTION.—In  
 21 the case of a group health plan maintained pursuant  
 22 to 1 or more collective bargaining agreements be-  
 23 tween employee representatives and 1 or more em-  
 24 ployers ratified before the date of enactment of this

1 Act, the amendments made by this section shall not  
 2 apply to plan years beginning before the later of—

3 (A) the date on which the last collective  
 4 bargaining agreements relating to the plan ter-  
 5 minates (determined without regard to any ex-  
 6 tension thereof agreed to after the date of en-  
 7 actment of this Act), or

8 (B) January 1, 2003.

9 For purposes of subparagraph (A), any plan amend-  
 10 ment made pursuant to a collective bargaining  
 11 agreement relating to the plan which amends the  
 12 plan solely to conform to any requirement added by  
 13 this section shall not be treated as a termination of  
 14 such collective bargaining agreement.

15 **SEC. 5. PROHIBITION OF DISCRIMINATION BASED ON PRE-**  
 16 **EXISTING CONDITIONS.**

17 (a) IN GENERAL.—Subpart B of part 7 of subtitle  
 18 B of title I of the Employee Retirement Income Security  
 19 Act of 1974 (as amended by section 4) is amended further  
 20 by adding at the end the following new section:

21 **“SEC. 715. PROHIBITION ON DISCRIMINATION BASED ON**  
 22 **PRE-EXISTING CONDITIONS.**

23 “(a) IN GENERAL.—A group health plan, and a  
 24 health insurance issuer offering group health insurance  
 25 coverage, may not impose any change in the premium



1 rates charged for coverage of participants and bene-  
2 ficiaries under the plan so as to result in a premium  
3 charged to any such participant or beneficiary which is  
4 above that which is charged to otherwise similarly situated  
5 individuals solely on the basis of a pre-existing condition  
6 of such participant or beneficiary.

7 “(b) NOTICE UNDER GROUP HEALTH PLAN.—The  
8 imposition of the requirement of this section shall be treat-  
9 ed as a material modification in the terms of the plan de-  
10 scribed in section 102(a)(1), for purposes of assuring no-  
11 tice of such requirements under the plan; except that the  
12 summary description required to be provided under the  
13 last sentence of section 104(b)(1) with respect to such  
14 modification shall be provided by not later than 60 days  
15 after the first day of the first plan year in which such  
16 requirement apply.

17 “(c) PRE-EXISTING CONDITION.—For purposes of  
18 this section, the term ‘pre-existing condition’ means, in  
19 connection with any change in premium rates charged for  
20 coverage of a participant or beneficiary, a medical condi-  
21 tion of the participant or beneficiary that was present be-  
22 fore the effective date of the change in premium rates,  
23 whether or not any medical advice, diagnosis, care, or  
24 treatment was recommended or received before such  
25 date.”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) Section 732(a) of such Act (as amended by  
3 section 4 of this Act) is amended further by striking  
4 “sections 711 and 714” and inserting “sections 711,  
5 714, and 715”.

6 (2) The table of contents in section 1 of such  
7 Act (as amended by section 4 of this Act) is amend-  
8 ed further by inserting after the item relating to sec-  
9 tion 714 the following new item:

“Sec. 715. Prohibition on discrimination based on pre-existing conditions.”.

10 (c) EFFECTIVE DATES.—

11 (1) IN GENERAL.—Subject to paragraph (2),  
12 the amendments made by this section apply with re-  
13 spect to group health plans for plan years beginning  
14 on or after January 1, 2003.

15 (2) COLLECTIVE BARGAINING EXCEPTION.—In  
16 the case of a group health plan maintained pursuant  
17 to 1 or more collective bargaining agreements be-  
18 tween employee representatives and 1 or more em-  
19 ployers ratified before the date of enactment of this  
20 Act, the amendments made by this section shall not  
21 apply to plan years beginning before the later of—

22 (A) the date on which the last collective  
23 bargaining agreements relating to the plan ter-  
24 minates (determined without regard to any ex-

1           tension thereof agreed to after the date of en-  
2           actment of this Act), or

3                       (B) January 1, 2003.

4       For purposes of subparagraph (A), any plan amend-  
5       ment made pursuant to a collective bargaining  
6       agreement relating to the plan which amends the  
7       plan solely to conform to any requirement added by  
8       this section shall not be treated as a termination of  
9       such collective bargaining agreement.

10 **SEC. 6. PAYMENTS BY PENSION AND ANNUITY PLANS FOR**  
11 **COBRA BENEFITS.**

12       (a) IN GENERAL.—Section 401 of the Internal Rev-  
13       enue Code of 1986 is amended by redesignating subsection  
14       (o) as subsection (p) and by inserting after subsection (n)  
15       the following new subsection:

16       “(o) COVERED BENEFITS FOR COVERED EMPLOY-  
17       EES.—Under regulations prescribed by the Secretary, a  
18       pension or annuity plan may make payments for pre-  
19       miums for continuation coverage under a group health  
20       plan on behalf of a qualified beneficiary which meet the  
21       requirements of section 4980B(f), but only if such benefits  
22       are subordinate to the retirement benefits provided by the  
23       plan and to the qualified current retiree health liabilities  
24       (as defined in section 420) of a health benefits account  
25       which is part of such plan.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 subsection (a) shall apply to taxable years beginning after  
3 the date of the enactment of this Act.

4 **SEC. 7. NOTICE TO PARTICIPANTS AND BENEFICIARIES**  
5 **CLAIMING GROUP HEALTH PLAN BENEFITS**  
6 **OF AVAILABILITY OF SSI BENEFITS.**

7 (a) IN GENERAL.—Section 609 of the Employee Re-  
8 tirement Income Security Act of 1974 (29 U.S.C. 1169)  
9 is amended—

10 (1) by redesignating subsection (e) as sub-  
11 section (f); and

12 (2) by inserting after subsection (d) the fol-  
13 lowing new subsection:

14 “(e) NOTICE TO CLAIMANT OF AVAILABLE SSI BEN-  
15 EFITS.—Upon receipt of a claim for benefits under a  
16 group health plan, the administrator of such plan shall,  
17 not later than 30 days after receipt of the claim, provide  
18 to the claimant written notice of the availability to eligible  
19 elderly or disabled individuals with limited income and re-  
20 sources to cash benefits under the supplemental security  
21 income program under title XVI of the Social Security  
22 Act. Such notice shall be in a form which shall be pre-  
23 scribed by the Secretary of Health and Human Services.”.

24 (b) ENFORCEMENT.—Section 502(c)(1)(A) of such  
25 Act (29 U.S.C. 1132(c)(1)) is amended by striking “para-

1 graph (1) or (4) of section 606 or section 101(e)(1)” and  
 2 inserting “section 101(e)(1), paragraph (1) or (4) of sec-  
 3 tion 606, or section 609(e)”.

4 (c) EFFECTIVE DATE.—The amendments made by  
 5 this section shall apply in connection with claims for bene-  
 6 fits filed during plan years beginning on or after January  
 7 1, 2003.

8 **SEC. 8. REQUIREMENT FOR QUALIFIED INDIVIDUALS WHO**  
 9 **OBTAIN EMERGENCY ROOM SERVICES TO**  
 10 **MAINTAIN SUBSTANTIAL HEALTH INSUR-**  
 11 **ANCE COVERAGE FOR 2 YEARS.**

12 (a) ALIENATION OF PENSION BENEFITS TO EN-  
 13 FORCE COURT ORDER TO MAINTAIN COVERAGE.—Sec-  
 14 tion 206 of the Employee Retirement Income Security Act  
 15 of 1974 (29 U.S.C. 1056) is amended by adding at the  
 16 end the following new subsection:

17 “(g) ALIENATION OF PENSION BENEFITS TO EN-  
 18 FORCE CERTAIN COURT ORDERS TO MAINTAIN SUBSTAN-  
 19 TIAL HEALTH INSURANCE COVERAGE.—

20 “(1) ALIENATION OF PENSION BENEFITS.—  
 21 Subsection (d)(1) shall not apply in connection with  
 22 any pension plan with respect to amounts payable,  
 23 by an individual who is a participant or beneficiary  
 24 under such plan and fails to meet the requirements  
 25 of paragraph (2), for the purpose of acquiring and

1 maintaining health insurance coverage pursuant to  
2 an order of a court of competent jurisdiction under  
3 section 502(c)(7).

4 “(2) REQUIREMENT OF COVERAGE UPON OB-  
5 TAINING EMERGENCY ROOM SERVICES.—In any case  
6 in which emergency room services are obtained for  
7 a qualified individual or for such individual’s spouse  
8 or dependent, such individual shall be treated as fail-  
9 ing to meet the requirements of this paragraph with  
10 respect to the patient if, at the time that such serv-  
11 ices are obtained, such patient is not covered under  
12 substantial health insurance coverage.

13 “(3) DEFINITIONS.—For purposes of this  
14 subsection—

15 “(A) QUALIFIED INDIVIDUAL.—The term  
16 ‘qualified individual’ means an individual whose  
17 adjusted gross income for the taxable year pre-  
18 ceding the time emergency room services de-  
19 scribed in paragraph (2) are obtained is greater  
20 than or equal to 500 percent of the poverty line  
21 (as defined by the Office of Management and  
22 Budget).

23 “(B) EMERGENCY ROOM SERVICES.—The  
24 term ‘emergency room services’ means medical  
25 care at a hospital emergency department (as

1 defined for purposes of section 1867 of the So-  
2 cial Security Act (42 U.S.C. 1395dd)).”.

3 “(C) SUBSTANTIAL HEALTH INSURANCE  
4 COVERAGE.—

5 “(i) IN GENERAL.—The term ‘sub-  
6 stantial health insurance coverage’ means  
7 health insurance coverage (within the  
8 meaning of section 733(b)(1)) which is de-  
9 termined by the Secretary (in consultation  
10 with the Secretary of Health and Human  
11 Services) to meet the following require-  
12 ments:

13 “(I) AGGREGATE ACTUARIAL  
14 VALUE EQUIVALENT TO BENCHMARK  
15 PACKAGE.—The coverage has an ag-  
16 gregate actuarial value that is at least  
17 actuarially equivalent to one of the  
18 benchmark benefit packages.

19 “(II) INCLUSION OF BASIC SERV-  
20 ICES.—The coverage includes benefits  
21 for items and services within each of  
22 the categories of basic services de-  
23 scribed in clause (iii).

24 “(III) SUBSTANTIAL ACTUARIAL  
25 VALUE FOR ADDITIONAL SERVICES IN-

1 CLUDED IN BENCHMARK PACKAGE.—

2 With respect to each of the categories  
 3 of additional services described in  
 4 clause (iv) for which coverage is pro-  
 5 vided under the benchmark benefit  
 6 package used under subclause (I), the  
 7 coverage has an actuarial value that is  
 8 equal to at least 75 percent of the ac-  
 9 tual value of the coverage of that  
 10 category of services in such package.

11 “(ii) BENCHMARK BENEFIT PACK-  
 12 AGES.—The benchmark benefit packages  
 13 are as follows:

14 “(I) FEHBP-EQUIVALENT  
 15 HEALTH INSURANCE COVERAGE.—The  
 16 standard Blue Cross/Blue Shield pre-  
 17 ferred provider option service benefit  
 18 plan, described in and offered under  
 19 section 8903(1) of title 5, United  
 20 States Code.

21 “(II) STATE EMPLOYEE COV-  
 22 ERAGE.—A health benefits coverage  
 23 plan that is offered and generally  
 24 available to State employees in the  
 25 State involved.



1                   “(III)     COVERAGE     OFFERED  
2                   THROUGH HMO.—The health insur-  
3                   ance coverage plan that is offered by  
4                   a health maintenance organization (as  
5                   defined in section 2791(b)(3) of the  
6                   Public Health Service Act), and has  
7                   the largest insured commercial, non-  
8                   medicaid enrollment of covered lives of  
9                   such coverage plans offered by such a  
10                  health maintenance organization in  
11                  the State involved.

12                 “(iii) CATEGORIES OF BASIC SERV-  
13                 ICES.—For purposes of this subparagraph,  
14                 the categories of basic services described in  
15                 this clause are as follows:

16                         “(I) Inpatient and outpatient  
17                         hospital services.

18                         “(II) Physicians’ surgical and  
19                         medical services.

20                         “(III) Laboratory and x-ray serv-  
21                         ices.

22                         “(IV) Well-baby and well-child  
23                         care, including age-appropriate immu-  
24                         nizations.

1           “(iv) CATEGORIES OF ADDITIONAL  
2 SERVICES.—For purposes of this subpara-  
3 graph, the categories of additional services  
4 described in this clause are as follows:

5                   “(I) Coverage of prescription  
6 drugs.

7                   “(II) Mental health services.

8                   “(III) Vision services.

9                   “(IV) Hearing services.

10           “(v) TREATMENT OF OTHER CAT-  
11 EGORIES.—Nothing in this subparagraph  
12 shall be construed as preventing substan-  
13 tial health insurance coverage from includ-  
14 ing coverage of benefits that are not within  
15 a category of services described in clause  
16 (iii) or (iv).

17           “(vi) DETERMINATION OF ACTUARIAL  
18 VALUE.—The actuarial value of coverage  
19 of benchmark benefit packages and cov-  
20 erage of any categories of additional serv-  
21 ices under benchmark benefit packages and  
22 under coverage offered by such a plan shall  
23 be set forth in an actuarial opinion in an  
24 actuarial report that has been prepared—

1           “(I) by an individual who is a  
2 member of the American Academy of  
3 Actuaries;

4           “(II) using generally accepted ac-  
5 tuarial principles and methodologies;

6           “(III) using a standardized set of  
7 utilization and price factors;

8           “(IV) using a standardized popu-  
9 lation that is representative of pri-  
10 vately insured individuals similarly sit-  
11 uated when compared to individuals  
12 expected to be covered under the sub-  
13 stantial health insurance coverage;

14           “(V) applying the same principles  
15 and factors in comparing the value of  
16 different coverage (or categories of  
17 services); and

18           “(VI) without taking into ac-  
19 count any differences in coverage  
20 based on the method of delivery or  
21 means of cost control or utilization  
22 used.

23           The actuary preparing the opinion shall se-  
24 lect and specify in the memorandum the

1 standardized set and population to be used  
 2 under subclauses (III) and (IV).”.

3 (b) REMEDY AGAINST QUALIFIED INDIVIDUALS FOR  
 4 NOT MAINTAINING SUBSTANTIAL HEALTH INSURANCE  
 5 COVERAGE WHILE OBTAINING EMERGENCY ROOM SERV-  
 6 ICES.—

7 (1) IN GENERAL.—Section 502 of the Employee  
 8 Retirement Income Security Act of 1974 (29 U.S.C.  
 9 1102) is amended—

10 (A) in subsection (a)(8), by striking “or”  
 11 at the end;

12 (B) in subsection (a)(9), by striking the  
 13 period and inserting “; or”;

14 (C) by adding at the end of subsection (a)  
 15 the following new paragraph:

16 “(10) by the Secretary or a State, in accord-  
 17 ance with subsection (c)(7), to provide appropriate  
 18 equitable remedies for failures to meet the require-  
 19 ments of section 206(g)(2).”;

20 (D) by redesignating subsection (c)(7) as  
 21 subsection (c)(8); and

22 (E) by inserting after subsection (c)(6) the  
 23 following new paragraph:

24 “(7) In any action under subsection (a)(10), the  
 25 court may provide appropriate equitable relief in connec-

tion with failures to meet the requirements of section 206(g)(2). Such relief may include an order that the defendant maintain, for at least the 2-year period commencing with the date of the failure described in section 206(g)(2), substantial health insurance coverage (as defined in section 206(g)(3)(B)) covering the patient involved.”.

(2) CONCURRENT JURISDICTION.—Section 502(e)(1) of such Act (29 U.S.C. 1132(e)(1)) is amended—

(A) in the first sentence, by striking “subsection (a)(1)(B)” and inserting “paragraph (1)(B), (7), or (10) of subsection (a) of this section”; and

(B) in the last sentence, by striking “paragraphs (1)(B) and (7)” and inserting “paragraphs (1)(B), (7), and (10)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to failures (to meet the requirements of section 206(g)(2) of the Employee Retirement Income Security Act of 1974) occurring on or after the date of the enactment of this Act.

○